

07/06/2000



RECEIVED

JUL 07 2000

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.

IN THE MATTER OF

RICO ARGENTINE MINE:
ST. LOUIS TUNNEL AND
ASSOCIATED TREATMENT PONDS,
RICO, COLORADO

RETURN OF
ADMINISTRATIVE WARRANT TO DETERMINE THE NEED FOR,
AND TO UNDERTAKE, RESPONSE ACTION PURSUANT TO
THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT,
42 U.S.C. §§ 9601 ET SEQ.

On April 19, 2000, the Court issued an Administrative Warrant to Determine the Need for, and to Undertake, Response Action Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 et seq. ("Administrative Warrant"), a description of the access and response activities made pursuant to the Administrative Warrant are as follows:

1. On April 24, 2000, the Administrative Warrant was served on Mr. Wayne Webster. A Notice of Service of Administrative Warrant on Wayne Webster was filed with the Court on May 5, 2000.
2. On April 24, 2000, the response action was begun at the Rico Argentine Mine's St. Louis Tunnel and its associated settling ponds ("Property").
3. On April 26, 2000, the response action was completed.

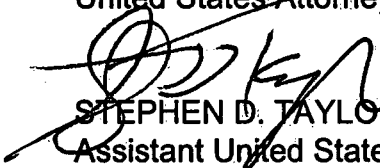
4. Attached hereto as Exhibit 1, is a true and correct copy of the Initial/Final Pollution Report of the United States Environmental Protection Agency which sets forth the Site Information (page 1-2), including a Site Description, a Description of the Treat, and the Site Evaluation Results; the Response Information (page 3), including the Removal Actions to Date; and the Cost Information (page 3).

5. No future action on the Property is anticipated at this time.

Dated: July 6, 2000.

Respectfully submitted,

THOMAS L. STRICKLAND
United States Attorney

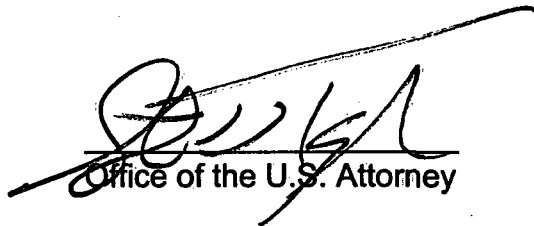


STEPHEN D. TAYLOR
Assistant United States Attorney
1961 Stout Street, Suite 1100
Denver, CO 80294
Telephone: (303) 844-3885

CERTIFICATE OF MAILING

I hereby certify that on this 6th day of July, 2000, a true and correct copy of the foregoing **RETURN OF ADMINISTRATIVE WARRANT TO DETERMINE THE NEED FOR, AND TO UNDERTAKE, RESPONSE ACTION PURSUANT TO THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, 42 U.S.C. §§ 9601 ET SEQ.** was mailed, postage prepaid, to:

Mr. Wayne Webster
5345 Impala Street
Athens, TX 75751



Office of the U.S. Attorney

EXHIBIT 1

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 8

999 18TH STREET - SUITE 500

DENVER, CO 80202-2466

<http://www.epa.gov/region08>

Ref: EPR ER

**INITIAL/FINAL POLLUTION REPORT
Rico Town Pond Site
(a.k.a Rico Argentine Mine)
Rico, Colorado**

**ADMINISTRATIVE
RECORD**

I. BACKGROUND

Date: April 28, 2000
POLREP No.: Initial/Final
OSC Name: Tien Nguyen
Agency: EPA
Unit: Region VIII
Emergency Response Program
999 18th Street, Suite 500
Denver Colorado 80202
(303) 312-6820

**PUBLIC
DOCUMENT**

Party Conducting the Action: EPA
Response Authority: CERCLA

II. SITUATION

Date Action Started: 04/24/2000
Material Involved: Hazardous Substances (mine settling pond)
Substantial Threat: Yes
Completion Date: 04/26/2000

III. SITE INFORMATION**A. Incident Category**

CERCLA Emergency Removal Action pursuant to Section 104 of CERCLA.

B. Site Description**1. Site description**

The Rico Town Pond site, also known as Rico Argentine Mine site, is located approximately one mile north of the Town of Rico, Colorado, on Highway 145. The site is a complex of inactive and abandoned



tunnels, water treatment plant, and settling ponds. Effluent from the St. Louis tunnel flows into a series of settling ponds, immediately adjacent to the Dolores River. Hazardous materials such as cadmium, lead and arsenic are being released from the tunnel to the settling ponds.

The legal description of the site is the southeast quarter of Section 25, T.40 N, R. 11 W. The approximate site coordinates are 37° 42' 05" North latitude and 108° 01' 39" West longitude.

2. Description of threat

The uppermost settling pond contains sediment and sludge laden with heavy metals noted above. The conduit (a 12-inch culvert) from the uppermost pond to the down gradient pond was partially blocked - therefore preventing effluent from the uppermost pond from flowing freely into the downgradient pond. The uppermost pond was full, and its riverside embankment had begun to erode. A few weeks ago, the erosion allowed the water, sediment, and sludge from the settling pond to flow directly into the Dolores River. Personnel from the Town of Rico had to dig a temporary overflow channel to reduce the level of water in the uppermost pond.

The Town Manager requested EPA to conduct an emergency removal at the site to prevent further release of the pond's water and sediment directly into the Dolores River.

C. Site Evaluation Results

On April 14, 2000, the EPA OSC was accompanied by the Town Manager of Rico, the Mayor of Rico, a member of the Rico Board of Trustees, a member of the Rico Fire Department, and EPA's contractor to visit and evaluate the need for a removal at the site. Samples of water and sediment were collected during the site visit. In 1996, the START team had collected water and sediment samples at the site. The 1996 results of the sediment collected from the uppermost pond revealed elevated levels of cadmium: 227 ppm, lead: 838 ppm, and arsenic: 49.4 ppm. The preliminary results of the sediment taken between the tunnel and the uppermost pond confirmed the results of the 1996 sampling. As the weather continues to warm, the melting of the snowpack above the uppermost pond will probably increase and the erosion of riverside embankment of the uppermost pond would accelerate, potentially allowing water and sediment from the pond to flow directly into the Dolores River.

IV. RESPONSE INFORMATION

A. Situation

1. Removal actions to date

On April 19, 2000, EPA obtained a Warrant thru DOJ which allowed the emergency response team to stabilize the settling pond's embankment and prevent the release of the mine waste into the River.

The EPA ERCS Contractor mobilized to the Site on April 21 to prepare for the removal. On April 24, after the Warrant was served to the property owner, the ERCS contractor began the removal to stabilize the site. Imported gravel was used to reinforce the riverside embankment of the uppermost pond. An area of the embankment, approximately 300 foot long and 12 foot wide, was raised to at least 18 inches above the existing pond water level. An additional culvert consisting of two 8-inch pipes was built to drain the water from the uppermost pond into the downstream ponds. Also, an overflow riprap was built to drain the water should the culvert fail its functioning and thus prevent the water level in the uppermost pond from raising above the existing level.

The Removal Action was then considered to be complete.

2. Enforcement

Because this was a Time-Critical, Classic Emergency Removal Action, EPA has completed this as a Fund-Lead and will pursue enforcement procedures at a later date.

3. State and Local Role

On 4/10/00 the Town Manager of Rico requested action by EPA to stabilize the site. The Town did not have funds to address the situation.

B. Future Plans

None.

C. Key Issues

None at this time.

V. COST INFORMATION

Estimated construction costs are \$40,000 to date. Total final costs have not been received.